UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/Sub.2/1998/SR.12
16 December 1998

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION
AND PROTECTION OF MINORITIES

Fiftieth session

SUMMARY RECORD OF THE 12th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 11 August 1998, at 10 a.m.

Chairman: Mr. GUISSÉ

later: Mr. FAN Guoxiang

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GE.98-13617 (E)

The meeting was called to order at 10.10 a.m.

COMPREHENSIVE EXAMINATION OF THEMATIC ISSUES RELATING TO THE ELIMINATION OF RACIAL DISCRIMINATION:

(a) SITUATION OF MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES

(b) XENOPHOBIA

(agenda item 3) (E/CN.4/Sub.2/1998/4 and 5)

1. Mrs. CHAMARTIN (International Labour Office) said that, as indicated in its Memorandum (E/CN.4/Sub.2/1998/21), ILO had, since its creation, been concerned with the protection of migrant workers. Its legal instruments on the subject included the Migration for Employment Convention (No. 97) and the Migrant Workers Convention (No. 143), which had unfortunately been ratified by only 41 and 18 countries respectively. In its efforts to solve the problem of ratifications which was particularly acute in the case of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, ILO was making a general survey with a view, inter alia, to the possible revision of the instruments in question. In addition to the technical cooperation and advisory services currently provided by ILO in the field of migration, the conclusions reached as a result of an interregional project entitled Combating discrimination against (im)migrant workers and ethnic minorities in the world of work, launched in 1993, would be examined in October 1998 by a tripartite meeting of experts and published in the form of a Manual on achieving equality for migrant and ethnic minority workers. Moreover, in accordance with the recommendations of a Tripartite Meeting on Future ILO Activities in the Field of Migration, adopted by ILO's Governing Body, a database on migrations was being created for the use of Governments and all other interested parties. A limited version should be available on the Internet within a year.

2. ILO had also participated actively in the Inter-Governmental Working Group on Human Rights of Migrants, and had supported the extension of the Group's mandate at the Commission's fifty-fourth session. Nevertheless, given its limited resources, the Working Group ought to avoid duplication of activities already undertaken by United Nations specialized agencies and reputable NGOs. ILO would be prepared, for its part, to contribute to fact-finding missions on the violations of migrant workers' rights in the regions concerned.

3. Mr. KIRKYACHARIAN (Movement Against Racism and for Friendship Among Peoples) said that the two sub-items under discussion, namely, xenophobia and migrant workers, were linked since the victims of xenophobia were generally to be found among migrant populations, and the exploitation of xenophobia for political purposes by the extreme right usually targeted migrant workers and their families. It was therefore clear that even so-called "affirmative action" had only a very limited effect in the face of certain deep-rooted structural inequalities in society. In the United States, for example, African-Americans accounted for 12 per cent of the population, but for 60 per cent of the number of persons on death row. If the racism experienced by migrant workers was to be curbed, States must once again be urged to sign

and ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The former French Minister of the Interior, Charles Pasqua, had rightly underlined in that connection that clandestinity benefited only the employers of cheap labour and that, consequently, the situation of persons who were semi-illegal had to be regularized. It was particularly imperative that the developed States which were hosts to migrant workers and profited from their work should sign and ratify that Convention.

4. Among positive developments, he mentioned the establishment in Vienna, at the initiative of the Council of Europe and the European Union (EU), of the Monitoring Centre for Racism and Xenophobia, which should play an important role in arousing public awareness, as was being done in France by the National Advisory Committee on Human Rights. The Treaty of Amsterdam, concluded in the framework of the European Union, was also encouraging since it elevated discrimination issues to the level of basic principles, and therefore made it possible in theory to envisage a joint integration policy, providing that it received the unanimous assent of all EU member States. Unfortunately, in point of fact racial tensions were becoming exacerbated and acts of aggression against immigrants were increasing.

5. Another encouraging development was the European Union's decision to set up a network of anti-racist NGOs. While it was uncertain what results of its decision would be, it was clear that the European Union would have to make a serious effort to tackle the problems posed by the invisible "sixteenth State", consisting of illegal workers, with no common language or defined territory, and characterized by non-citizenship. The solution to the problem, which also arose in other regions of the developed world, must inevitably be sought in equality and in working to achieve equality.

6. Ms. TANAKA (International Movement Against All Forms of Discrimination and Racism) said that, in his interesting working paper on "affirmative action" (E/CN.4/Sub.2/1998/5), Mr. Bossuyt pointed out that the concept implied the need for certain clarifications. In what way did it actually differ from "special measures", the phrase used exclusively by the relevant international human rights instruments? According to the United Kingdom's Commission for Racial Equality, for example, the concept of "positive action" as defined in the Race Relations Act 1976, lacked the breadth of meaning of the expression "affirmative action" used in the United States, which applied not only to racial minorities, but also to women and the handicapped.

7. Whatever its precise meaning, the concept of "affirmative action" had at all times and in all places been subject to criticism, particularly since it was seen as a tool of "reverse discrimination" through quota systems or preferential treatment which could exclude qualified individuals simply because they belonged to the majority group and not to one minority or another. In the United Kingdom the "positive action" provided for by law was simply a series of measures to encourage people from particular racial groups to develop their potential and apply for jobs. It was only in very limited circumstances that membership of a certain racial group was a genuine occupational qualification for a job. A distinction could thus be made between policies that "imposed" quotas and those which set targets. Another criticism which ought to be addressed was that "affirmative action" might

promote not the integration of various disadvantaged groups in society, but rather their segregation by focusing on their racial, ethnic or gender characteristics.

8. The Sub-Commission ought therefore to continue its study of the concept of "affirmative action", within the context of the special measures provided for in international instruments, including the International Convention on the Elimination of Racial Discrimination, the Committee on the Elimination of Racial Discrimination against Women, ILO and other specialized agencies, with a view to making concrete recommendations which could be brought to the attention of the forthcoming World Conference on Racism, Racial Discrimination, Xenophobia and Related Intolerance.

9. Mrs. OSONA (North South XXI) said that in Chiapas, 20,000 people, driven from their homes and completely powerless, were confronted by 70,000 Mexican Government soldiers who occupied their land and might even wipe them out. Paramilitary groups supported by the Government were also terrorizing the indigenous population, whom they held for ransom or sometimes forcibly recruited. Ubiquitous military road-blocks prevented the inhabitants from going about their normal business, and in addition drought and fires - often started deliberately - prevented the peasants who remained in their villages from growing maize, so that large numbers of people were threatened with famine.

10. The conflict could nevertheless be resolved if the Mexican Government was required to honour its commitments to the indigenous populations under the San Andrés Sacamchen de los Pobres Agreement of 16 February 1996.

11. Ms. RUPPRECHT (International Institute for Peace) said that, since the Second World War, a number of countries had achieved prosperity, to which a significant contribution had been made by migrant workers. Germany, for example, had made extensive use of Turkish labour, although admittedly it had started out with considerable industrial and technical resources. On the other hand certain countries members of the Organization of the Islamic Conference, such as Saudi Arabia and Qatar, which had only oil, had recruited qualified cheap labour from Nepal, the Philippines, Bangladesh and India. Such was the beginning of the harrowing tale of human rights abuses of many migrant workers.

12. Although Turkish workers in Germany had sometimes experienced problems, they had access to redress in that democratic country. But in the oil-rich countries of the Gulf, young Nepalese, Filipina and other girls employed as domestic servants had no redress and no rights in societies where women had always been, and still were, regarded as inferior beings. Young girls from poor Islamic countries such as Bangladesh and Indonesia were treated in the same way. Moreover, the truth emerged only when the victims, their passports confiscated and without a visa, somehow managed to return home, at times deeply traumatized. It was precisely to help such young girls that Nepal had set up a special organization.

13. The situation of male migrant workers was hardly better, since they were deprived of all rights and freedoms in the institutions and companies where they worked. Yet the Sub-Commission had so far never attempted to inquire

into the situation of migrant workers in the oil States of the Gulf. It was time that it set an example by examining the situation in each of these oil-rich countries, which ventured to criticize established democracies, but whose wealth owed much to the poor children of Nepal and Bangladesh.

14. Mr. DESH PAL SINGH (International Institute of Non-Aligned Studies) noted that the growing interdependence of the world made a mix of populations inevitable. Yet, instead of resulting, as it should, in a general improvement of living standards, the mixing was a source of tensions. Nations that prided themselves on being the melting pot of civilizations and declared themselves in favour of the equality of all human beings were today in the forefront of attempts to restrict the free movement of people, giving their essentially economic fears racial overtones by claiming to be overrun by immigrants. Xenophobia was growing at an alarming rate. The nationals of countries seen as "inferior", which increasingly meant people whose skin colour or wallet size were not acceptable, were even being refused tourist visas. The way in which non-whites applying for visas in the embassies of developed countries were treated spoke volumes. The majority of advanced countries had entered reservations to the International Convention on the Elimination of All Forms of Racial Discrimination, although they should have been the very countries to welcome it without reservation. Issues of domestic policy and economics were increasingly taking precedence over human values, even in the richest countries.

15. In many developing countries, discrimination based on caste, creed and colour was rooted in ignorance and reflected secular traditions. Education and economic development enabled such prejudices to be gradually eliminated. However, in the developed countries, with high per capita incomes and almost universal literacy, racial discrimination sprang from their refusal to share prosperity. In those countries, education placed insufficient emphasis on the fact that racial differences did not denote racial superiority or inferiority. Huge investments were not required to remedy the situation. What was needed was merely an acknowledgement by those who saw themselves as champions of human rights that they too had at times been guilty of racial discrimination. The Convention on the Elimination of All Forms of Racial Discrimination would then be more than just another document.

16. Mrs. BERAUN (American Association of Jurists) said that, because of political persecution, but above all for economic reasons due to the neo-liberal policies of the present Peruvian Government, thousands of Peruvians were leaving their country in search of better living conditions. They were to be found throughout Latin America, particularly in Chile, Argentina and Venezuela, working in conditions reminiscent of another century. Her organization also drew attention to the tragic situation of children and adolescents who, having fled from war-torn countries, arrived alone in Germany, were welcomed on humanitarian grounds and studied or worked there until eventually they were sent back to their home countries when they reached the age of majority. She urged the Sub-Commission to call on the German Government to adapt its legislation so as to grant such young people the right of permanent residence in Germany.

17. Although it was common knowledge that an iron curtain had come down along the entire border between the United States and Mexico to prevent the

entry of illegal immigrants into the United States, and that American laws deprived the children of illegal immigrants of social security and schooling, much less well known was the dramatic fate awaiting persons who arrived illegally in the United States and were subject in that country to an expulsion order which, for one reason or another, could not be implemented. Such persons remained indefinitely in detention and had no legal remedy, the Supreme Court of the United States having decided that they had no constitutional rights since they were not in reality in the United States but simply in the hands of the Immigration and Naturalization Service. Such people had no existence at law. Yet they were human beings liable to rebel, and it was not uncommon for them to be tranquillized to prevent them from doing so. The American Association of Jurists therefore requested the Commission's Working Group on Arbitrary Detention to look into the situation of such persons - mostly illegal immigrants - held in United States prisons.

18. Mrs. BIRD BIOUDI (International Confederation of Free Trade Unions - ICFTU) drew the Sub-Commission's attention to the rights of migrant workers, whose numbers had reached unprecedented levels as a result of economic globalization. According to ILO estimates, there were some 42 million legal migrant workers worldwide, and each year some 6 million illegal workers were exploited by criminal organizations which earned some US$ 7 billion from their trafficking. Italy was handling an unrelenting flood of illegal immigrants from North Africa and the Balkans, although Asian and African countries were the principal points of departure for migrants, and most migration took place between the countries of the southern hemisphere. Black Africa alone had more than 40 million migrants, including 6 million refugees. In contrast to the traditional model, women had for some time been migrating to an increasing extent: often employed as domestic workers, they were particularly vulnerable because of their isolation and dependence on their employers.

19. Migrant workers, mostly poorly-qualified or unskilled workers, were being exploited, but at the same time were benefiting both their countries of origin as well as their host countries: the latter benefited from the money they sent home (in El Salvador, Sri Lanka and Bangladesh such transfers had become the main source of income), and the former benefited from the fact that migrant workers made large social security contributions, performed jobs that no national workers would be prepared to do under the same conditions, and contributed to the economy as consumers. Nevertheless, discrimination against them persisted. Foreigners were often used as scapegoats in times of crisis, as had recently happened in Asia.

20. The only way to break the vicious circle of competition among workers, caused by globalization, which led to a deterioration of working conditions and wages, was to promote solidarity between them and ensure compliance with international labour standards. In that connection, ICFTU deplored the fact that only eight countries had so far ratified ILO Convention No. 158 (1990) on the protection of migrant workers and their families. With 207 affiliated unions in 141 countries, ICFTU believed it was time for the unions to become a player in the global economy, so far dominated by the business world. At a time when labour was migrating to meet the demands of potential employers and was considered a mere commodity like any other, the task of the unions was to

campaign against racism and xenophobia, to try to give migrant workers special support, and above all try to restore to them their rights and dignity as human beings.

21. Mr. MARTINEZ (Indian Movement "Tupaj Amaro") drew attention to the plight of migrant workers from certain Latin American countries who sought to emigrate to the United States through Mexico. Such workers who were mostly indigenous, left their countries because they had been unable to find jobs that would enable them to feed their families and travelled to southern Mexico, where they were exploited on coffee, banana and cotton plantations and provided with no medical or social protection whatever. Nevertheless, many of them managed to reach the northern Mexican border, where they joined the thousands of Mexican indigenous workers on their way to the same destination, finding temporary work on the large farms in the northern States under extremely exploitative conditions, with not even minimum services provided by either their employers or the authorities. The "Salvador Alvarado" association of agricultural day labourers and workers in northeastern Mexico had managed to set up a few shelters equipped with a medical service. On reaching the United States border, many of the workers were deprived of the little money they had managed to save by those who helped them cross the border, legally or illegally. Their arrival in the United States, the country which made itself out to be the defender of human rights, was the beginning of a new series of trials, consisting of ill-treatment, racial discrimination, lack of understanding, harassment and exploitation.

22. Indian Movement "Tupaj Amaro" condemned the dam built along the 3,500 km border between Mexico and the United States and the new anti-Mexican migration laws recently examined by the United States Congress. In addition, the neoliberal policies currently being followed by the Latin American countries were leading to a globalization which left no room for the observance of the rights of workers, whose labour was exploited by the more developed countries without the slightest regard for their social welfare needs. Migrant workers, whether indigenous or not, who were the victims of exploitation in the United States and other countries, must be given special attention in government negotiations if they were to be able to assert their rights as human beings.

23. Mr. BEKIROV (Society for Threatened Peoples) referred to the problem of the political representation of minority racial groups in multiracial countries and stressed the need for positive discrimination. The over-representation of certain racial groups in government bodies, while others were under-represented or not represented at all, should be regarded as a very dangerous form of racial discrimination, as it led to decisions favouring the better-represented ethnic groups and even promoted economic, cultural and linguistic discrimination against non-represented or under-represented racial groups. It sometimes seemed that the most severe cases of racial discrimination were those where the minority group dominated the majority group, as in South Africa during apartheid. It was true that democracy meant government by the majority, and that democracy should normally make it possible to eliminate racial discrimination. Yet it was sometimes forgotten that democracy was government by a political majority. In multiracial societies situations frequently arose where the larger racial group repeatedly achieved a political majority. When that happened, some

racial groups were under-represented or not represented in State bodies because the distribution of governing positions was under the complete control of the largest racial group, which refused to share power.

24. To say, as did those Governments that wished to justify their practice of racial discrimination, that the constitution guaranteed all citizens equal political rights and that no one racial group needed to be protected by special legal mechanisms, was nothing but demagogy, as was the argument that a racial minority was well represented simply because a particular leader belonged to it. In a real democracy minority groups should be able to be represented by members of parliament or government independently of pressure from the racial majority. There were examples of larger ethnic groups trying to promote the rights of smaller ones, but unfortunately the more frequent case was the numerically dominant racial group trying to limit the political participation of the others. One example was Kosovo, where the Serbian Government had reduced the political autonomy of Albanians and Muslims to nothing.

25. The most dangerous situation occurred when the victim of discrimination was an entire people, as were the Crimean Tatars. The Ukrainian Government had abolished the quota for indigenous people, and more than 12 per cent of the population of the Crimean Autonomous Republic had lost their representation in the regional parliament. To eliminate protests, the Ukrainian Government had concentrated more than 50,000 armed troops in Crimea, equipped with tanks and helicopters, which constituted a threat to international peace. Mediation by the Organization for Security and Cooperation in Europe had been ineffective, and no one knew how the situation in the region would evolve. The theoretical difficulty of defining circumstances where a racial dictatorship was concealed by formal democratic procedures should not prevent such a system of government from being qualified as a very dangerous form of racial discrimination. The adoption of measures of positive discrimination should be explored to ensure interracial and international peace and cooperation.

26. Mr. WAREHAM (International Association against Torture - IAAT-AICT), also speaking on behalf of the December 12th Movement International Secretariat, said combating apartheid had by consensus been considered to be quite important, because of the blatant racism on which it had been based, but the same was no longer true of the fight against racism. The opposition of certain major Western Powers, in particular the United States of America, to the holding of the World Conference against Racism was an example of the uneasiness created by any attempt to resolve the problem and of the hypocrisy which existed in the human rights arena. The Conference was scheduled for 2001, but much work needed to be done immediately if it was to succeed in developing a programme of action which would decisively attack the issue of racism. He noted that racism was never studied as a separate issue, but in conjunction with other topics, an example being the Commission's appointment of a Special Rapporteur on racism, racial discrimination, xenophobia and related intolerance, in an attempt to weaken the focus on racism and its prime practitioners, the Western countries.

27. Nevertheless, it was clear from recent events that racism was on the rise. In Australia, the ultra-right One Nation Party had the support of 12 per cent of Australians; its leader, Pauline Hanson, was against Asians and Aborigines. The Supreme Court of Canada had recognized that there was widespread racism in the justice system and that racially prejudiced jurors had to be screened out. According to a recent poll in France, two of every five French persons admitted holding racist and xenophobic views in some form. The policy of "national preference" defended by some politicians in their scramble to defeat the National Front, the extreme right-wing party, had been criticized by the Council of Europe's European Commission against Racism and Intolerance, which had concluded that France was rife with racist activities and was not taking all the necessary steps to wipe them out. In Russia, members of the Black, Asian and Muslim communities were subject to attacks by neo-Nazi groups. In the United Kingdom, the attack on a Black university professor who had been living in Scotland for over 30 years had shown that a person's status was of little importance in comparison with his or her colour. The German Constitution prohibited discrimination on racial grounds, but that provision had not been incorporated into law and had little practical application, as illustrated by the case of Noël Martin, a Black worker who had been paralyzed as a result of a racist attack in 1996 and had not yet received compensation from the German authorities. In Austria, the son of a former Gestapo official had received 30 per cent of the vote in a recent election, despite the fact that his ties to former Nazis had been reported on national television. In the United States, the forced underdevelopment of 40 million Black people was overshadowed by the achievements of a few African-Americans, whose success did not protect them from racist incidents and attacks. Camille Cosby, the wife of actor Bill Cosby, whose son was murdered by a Ukrainian immigrant, had written an article condemning institutional racism in the United States. African-Americans were discriminated against in every area, including health, education, and land ownership.

28. Racism was the constant companion of capitalism and there was an obvious connection between increases in racism and periods of economic dislocation. The Sub-Commission had prepared extremely useful studies on income distribution and other economic issues which were indispensable in finding a solution to the problem of racism. AICT therefore proposed that it should undertake a study on the relationship between economic crises and the rise of institutional and individual racism, ensuring that the themes of racism and ethnic prejudice/conflict were addressed as separate issues. The two non-governmental organizations (NGOs) he represented offered their expertise in helping the Sub-Commission ensure the success of the World Conference against Racism.

29. Mr. PARKER (International Educational Development) said that, regrettably, the International Convention on the Protection of Migrant Workers and Members of Their Families had not yet been ratified by the United States, one of the major "user-States" of migrant labour, and especially of Mexican nationals. The failure of the United States to ratify the Convention was partly due to the efforts of certain groups in a campaign using migrants as scapegoats for other national ills. The Sub-Commission should appeal to the United States to combat anti-migrant xenophobia and to ratify the Convention without delay.

30. Another example of xenophobia and racism in the United States was that directed against Arabs and Muslims of all nationalities, which was a fundamental feature of the country's foreign policy, as illustrated by the Government's excessively hostile position towards the people and Government of Iraq. The intense Government campaign against the Iraqis had had a chilling effect on the natural solidarity between international human rights organizations and victims. The sanctions against Iraq also prevented the humanitarian aid organizations from carrying out their work in Iraq. Xenophobia was also used in a campaign directed against Cuba and the Cubans, although increasingly rejected by the American people themselves, including the Cuban Americans who opposed Fidel Castro's regime.

31. She also wished to comment on the anti-Tamil propaganda of the Government of Sri Lanka. There had been suggestions that NGOs were being duped by the Liberation Tigers of Tamil Eelam (LTTE), because they had expressed concern over the targeting of the Tamil civilian population by Sri Lankan forces: disappearances, torture, extrajudicial killings, rape, arbitrary arrests and indefinite detentions, in addition to an embargo on food and essential medicines and the displacement of 850,000 persons. Her organization called upon the Sub-Commission to heed the appeals of the NGOs that were asking the international community to find a solution to that war as it had in other wars.

32. Ms. GIRMA (African Association of Education for Development) referred to the problem of migrant workers and xenophobia, which took the form of peri-urban ghettos in Europe. Peaceful coexistence between multiracial and multicultural communities was under threat from an increase in racism, caused by feelings of fear and insecurity which certain political organizations were exploiting. If immigrants were granted the right to vote in local elections, as the Nordic countries were already doing, political leaders might treat them with more consideration in order to obtain their votes. The marginalization and exclusion of a portion of the population could only hurt the countries hosting immigrants. The multiracial composition of the team which had won the football World Cup was seen by many as a symbol of the fight against racism, xenophobia and exclusion. The Sub-Commission, whose members came from all regions of the world, must do everything in its power to ensure the success of the World Conference against Racism, despite the lack of interest which seemed to prevail.

33. Mr. SYED (Himalayan Research and Cultural Foundation) said that the adoption of the Convention on the Elimination of All Forms of Racial Discrimination had provided the international community with a legal instrument to end racial discrimination. The Convention's objectives had been to review, amend or repeal all laws which perpetuated racial discrimination. In ratifying it, more than three quarters of the Member States of the United Nations had pledged to combat that menace, yet xenophobia remained an important problem and constituted a grave threat to the realization of human rights.

34. New techniques, and in particular religion, were being used to create hatred and divide people. Pakistan was waging an Islamic "Jehad", a holy war, in Jammu and Kashmir, where non-Muslims were the victims of lootings and massacres by armed Muslim groups. Pakistan's objective was to set one

community against another on religious lines, and the authorities took advantage of the poverty of young Muslims from various countries to brainwash them and win them over to the Jehad. That was a convenient way of dealing with the present difficult economic situation. He feared that the holy war currently taking place in Jammu and Kashmir would spread to other parts of the world. The international community, which had pledged to stamp out the menace of xenophobia, could not afford to be a silent witness to such events. His organization called on the Sub-Commission to bring pressure to bear on Pakistan to cease its promotion of xenophobia; the danger to the realization of human rights could not be ignored.

35. Mr. Fan Guoxiang took the Chair.

36. Mr. MERIC (Observer for Turkey) said that, in spite of efforts to increase the awareness of Governments and the international community of racism, racial discrimination and xenophobia, and the special mechanisms established to stem their proliferation, such problems persisted in subtle new forms. The Turkish Government considered racism and racial discrimination in their contemporary forms to be among the most serious violations of human rights. All available means must be used to combat them and, especially, the impunity which sapped confidence in the State's authority and legislation and encouraged the commission of other, similar crimes.

37. His Government was particularly concerned by the situation of migrant workers living in Europe who were the victims of acts of racism and racial discrimination even on the part of public officials. They constituted one of the most vulnerable groups and would remain so until they were given effective special international protection. In that context, his Government was in favour of providing the Working Group of Experts on the Human Rights of Migrants with permanent status.

38. On another matter, certain racist groups were using new communication technologies to disseminate messages of incitement to violence and racial hatred, using ideas based on the superiority of one race. As the Committee on the Elimination of Racial Discrimination had concluded in General Recommendation XV (42), prohibiting such groups from disseminating messages of that kind did not violate freedom of expression. The new technologies should rather be used to combat racist opinions.

39. Another cause for concern was racism in the political field. In Europe and in other regions, some political parties were making increasing use of xenophobic arguments, targeted in particular at migrant workers, to their own political advantage. Care must be taken to prevent that tendency becoming strong enough to provide a basis for making racism a legitimate official doctrine. His Government attached great importance to the mandate of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance, as well as the World Conference against Racism, the convening of which it had supported and from which it expected concrete results. It welcomed the decision of the Commission on Human Rights to establish a working group to begin preparations for the Conference as early as 1999.

40. Mr. HERNANDEZ (Observer for Mexico) noted that international migrations were not new; as history had shown, they had often been decisive factors in the development of certain countries which included some of the most industrialized. However, those very countries were now adopting an extremely restrictive policy towards migrant workers, who now numbered nearly 100 million, or 2 per cent of the world's population. They constituted a particularly vulnerable group and deserved the attention of the international community. That was why the Mexican Government continued to support the world campaign in favour of the ratification and entry into force of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and had welcomed the establishment, in 1997, of a Working Group of the Commission on Human Rights to study the situation of migrants and ways to strengthen and protect their human rights more effectively. He noted with appreciation that nearly 60 countries had provided frank and honest replies to the questionnaire which the Group had sent them requesting information on the extent of migration and the violations to which migrants were exposed; that revealed the international community's keen interest in the issue.

41. Other initiatives had also been taken at the regional level. On 17 July 1998, the Third Summit Meeting of Heads of State and of Government had been held in El Salvador on the Tuxtla mechanism for dialogue and cooperation; the theme had been the development of international cooperation to ensure the full observance of migrants' human rights in efforts to resolve the problems raised by migration. The President of Mexico had announced a series of measures to facilitate the procedure to be complied with by migrants in regularizing their situation, as part of the Mexican Government's ongoing efforts to find realistic, long-term solutions to migrants' problems. The Government had in particular stepped up its consultations with Canada and the United States and had signed agreements with the United States establishing regulations governing expulsion procedures for migrants. A recently-enacted law permitted Mexicans who had emigrated to acquire another nationality without losing their Mexican nationality, and better to protect their rights in the countries where they settled.

42. The problem of international migrations would certainly not be solved solely through repression, with its negative consequences. For that reason Mexico advocated shared responsibility between nations and concerted action by all countries. It was important to establish mechanisms which helped to promote a culture of respect for the human rights of migrants through recognition of their contribution to the societies in which they lived. Thus Mexico awaited the recommendations of the Commission's Working Group with interest and would continue to participate actively in its work.

43. Mr. CHOWDHURY (Observer for Bangladesh) said that he was deeply concerned by the increasingly frequent acts of discrimination against foreigners in host countries and migrant workers in particular. Xenophobia, racism and prejudice, if deeply rooted in a society, could not be overcome by legislation alone. Education and the media must teach tolerance and respect for difference. Mechanisms must also be introduced to protect the rights of migrant workers, who constituted a particularly vulnerable group of society, especially those in illegal situations.

44. Women, and increasingly children, were "easy" victims of trafficking by unscrupulous individuals. The countries of South Asia, aware of that problem, were drafting a regional convention to combat it, under the auspices of the South Asian Association for Regional Cooperation.

45. The entire international community must defend the rights of migrant workers, notably through the Commission's Working Group and the preparation of the World Conference against Racism. In conclusion, he was pleased to inform the Sub-Commission that his country would shortly be ratifying six key international human rights instruments, including the International Convention on the Protection of All Migrant Workers and Members of Their Families.

46. Mr. WEISSBRODT referred to a letter dated 19 March 1997 (E/CN.4/Sub.2/1997/31), in which Mr. Banton, then Chairman of the Committee on the Elimination of Racial Discrimination, had proposed several topics for the Sub-Commission to study, including the advisability of referring to definitions of the terms "race" and "racism" in texts prohibiting racism and its implications, the rights of non-citizens and affirmative action. Mr. Bossuyt had produced a working paper on the concept of affirmative action (E/CN.4/Sub.2/1998/5), and he would subsequently propose that the Sub-Commission should assign Mr. Bossuyt, as Special Rapporteur, the task of preparing a study on that topic.

47. The elimination of the term "race" from international human rights instruments and national legislation would be premature, counter-productive and irresponsible. The objective of totally eradicating race-based social, economic and political stratification had yet to be achieved. Data and indicators, disaggregated along racial and ethnic lines, were needed to assess the progress achieved by States in combating racial discrimination and the effectiveness of national and international mechanisms designed to eliminate it.

48. With regard to the rights of non-citizens, the Chairman of the Committee on the Elimination of Racial Discrimination had noted in the above-mentioned letter that the distinctions increasingly made between various categories of non-citizens might amount to total exclusion of persons, depriving them of the most fundamental rights. In his view distinctions between non-citizens and citizens violated the principles of equality and non-discrimination embodied in the Charter of the United Nations, the Universal Declaration of Human Rights and the International Covenants on Human Rights. Further information on the violation of the rights of non-citizens could be found in the study by Baroness Elles on the protection of the human rights of non-citizens (E/CN.4/Sub.2/392/Rev.1), which had led to the General Assembly's adoption in 1985 of the Declaration on the Human Rights of Individuals Who are not Nationals of the Country in which They Live, the report of the Seminar on Immigration, Racism and Racial Discrimination (May 1997) (E/CN.4/Sub.2/77/Add.1), Mr. Eide's study on the achievements made and obstacles encountered during the Decades for Action to Combat Racism and Racial Discrimination and General Comment 15 of the Human Rights Committee, entitled "The position of aliens under the Covenant" (HRI/GEN/1/Rev.3), in which the Committee noted that reports from States parties often failed to take into account that each State party must ensure the rights in the Covenant to all individuals within its territory and subject to its jurisdiction.

49. He suggested that the Sub-Commission should ask one of its members to produce a preparatory document on the feasibility of a study on the rights of non-citizens, without financial implications, for consideration by the Sub-Commission in 1999.

50. Ms. HAMPSON said any study which the Commission decided to conduct on the rights of non-citizens should include the issue of double nationality. Migrant workers who were long-standing legal residents of their host country, as well as their children, should be able to acquire the nationality of that country and enjoy all related rights. The study should also include the situation of migrant workers whose State of origin revoked their nationality when they acquired the nationality of the host country. In other situations, double nationality made it possible to avoid tension between the host country and the country of origin.

51. Mr. EIDE endorsed the views expressed by Mr. Weissbrodt and Ms. Hampson. States' obligations under international law with regard to the granting of nationality should also be spelled out. In that context, account should be taken of the work of the International Law Commission on the problem of nationality in relation to the succession of States, the European Convention on Nationality recently adopted by the Council of Europe, which was relatively progressive, and certain relevant inter-American instruments.

52. Article 1, paragraph 2, of the International Convention on the Elimination of All Forms of Racial Discrimination, which authorized States parties to make distinctions between citizens and non-citizens, should be brought into perspective and States parties reminded that, in acceding to instruments of such importance as the International Covenant on Civil and Political Rights and the European Convention on Human Rights, they pledged to ensure to all individuals within their territory and subject to their jurisdiction the rights recognized in those instruments, whatever their nationality.

53. Mr. Guissé resumed the Chair.

54. Mr. JOINET noted that article 6 of the Universal Declaration of Human Rights stipulated that everyone had the right to recognition everywhere as a person before the law. Nationality was an integral and very important feature of legal personality. A study of the rights of non-citizens should therefore determine what criteria of international law would make it possible to fill gaps in domestic law or bring domestic law into line with international instruments.

55. Mr. KARTASHKIN said that all the questions raised, in particular the issue of double nationality, could be tackled in a study entitled, "The rights of individuals who are not nationals of the country in which they live".

56. Mrs. WARZAZI said she was not very clear why the Sub-Commission should undertake a study entitled "The rights of individuals who are not nationals of the country in which they live", since there was already a Declaration with exactly the same title, on which the Sub-Commission had worked for many years. She noted that the Western countries had done everything they could to limit the scope of the Declaration, for fear that it would influence the draft

International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, which had also been under preparation at the time. On that point, if the Convention was ever to be implemented, the employment-providing States would have to be asked to ratify it. She proposed the following title for the study of the human rights of non-citizens: "The potential benefits of double nationality for the elimination of discrimination against non-citizens".

57. She welcomed the fact that the proposal of the Chairman of the Committee on the Elimination of Racial Discrimination, to the effect that references to race should be removed from national and international legal texts, had not been accepted.

58. Mr. WEISSBRODT thanked members of the Sub-Commission for their statements, which had helped him grasp the complexity of the question of the rights of non-citizens. He would give them due consideration before making another proposal for a working paper on the issue.

59. Mr. EIDE said that much had happened since the adoption of the Declaration on the Human Rights of Individuals Who are not Nationals of the Country in which They Live, and new situations had to be taken into account. The Working Group on Minorities had decided to prepare a working paper on the very complex question of nationality and minorities. It was obvious that members would have to hold consultations in order to decide what kind of study should be undertaken.

The meeting rose at 1 p.m.